

United States District Court
Central District of California

JOSE MEDARDO RODRIGUEZ and

CLAUDIA SANCHEZ,

Plaintiffs,

v.

FEDERAL NATIONAL MORTGAGE

ASSOCIATION; BRISTOL

ASSOCIATES, LLC; DENISE ANAYA;

FERNANDO RIOS; PROFESSIONAL

PROTECTION GROUP; TUAN LE,

AMY ESTHER MCALLISTER;

CONTINENTAL FINANCIAL

NETWORK; THE FOREMOST LAW;

RHONDA K. WALKER; and DOES 1-10,

inclusive,

Defendants.

Case № 2:15-cv-04890-ODW-AGR

**ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS [22]**

I. INTRODUCTION

Presently before the Court is Defendant Federal National Mortgage Association's ("FNMA") Motion to Dismiss Complaint. (ECF No. 22.) Because

1 Plaintiffs Jose Medaro Rodriguez and Claudia Sanchez (“Plaintiffs”) have not filed
 2 any opposition, and for the reasons discussed in Defendant’s papers, the Court
 3 **GRANTS** Defendant’s Motion.¹

4 **II. FACTUAL BACKGROUND**

5 This case arises out of a defaulted mortgage loan, subsequent foreclosure, and
 6 related efforts to avoid and remedy the foreclosure of Plaintiff Rodriguez’s property.
 7 (Mot. 3.) Plaintiffs filed this action on June 29, 2015. (ECF No. 1; “Compl.”)
 8 FNMA filed the present Motion to Dismiss on September 14, 2015. (ECF No. 22.)
 9 Plaintiff Rodriguez filed a request to extend his time to respond to FNMA’s Motion,
 10 which was granted by the Court. (ECF Nos. 26, 28.) The Court ordered that an
 11 Opposition be filed by October 26, 2015. (ECF No. 28.) To date, no Opposition has
 12 been filed.

13 **III. LEGAL STANDARD**

14 A court may dismiss a complaint under Rule 12(b)(6) for lack of a cognizable
 15 legal theory or insufficient facts pleaded to support an otherwise cognizable legal
 16 theory. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). To
 17 survive a dismissal motion, a complaint need only satisfy the minimal notice pleading
 18 requirements of Rule 8(a)(2)—a short and plain statement of the claim. *Porter v. Jones*, 319 F.3d 483, 494 (9th Cir. 2003). The factual “allegations must be enough to
 19 raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550
 20 U.S. 544, 555 (2007). That is, the complaint must “contain sufficient factual matter,
 21 accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

22 The determination whether a complaint satisfies the plausibility standard is a
 23 “context-specific task that requires the reviewing court to draw on its judicial
 24 experience and common sense.” *Id.* at 679. A court is generally limited to the
 25

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 27
 28 ¹ After carefully considering the papers filed in support of the Motion, the Court deems the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; L.R. 7-15.

1 pleadings and must construe all “factual allegations set forth in the complaint . . . as
 2 true and . . . in the light most favorable” to the plaintiff. *Lee v. City of L.A.*, 250 F.3d
 3 668, 688 (9th Cir. 2001). But a court need not blindly accept conclusory allegations,
 4 unwarranted deductions of fact, and unreasonable inferences. *Sprewell v. Golden*
 5 *State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001).

6 IV. DISCUSSION

7 Central District of California Local Rule 7-9 requires an opposing party to file
 8 an opposition to any motion at least twenty-one (21) days prior to the date designated
 9 for hearing the motion. C.D. Cal. L.R. 7-9. Additionally, Local Rule 7-12 provides
 10 that “[t]he failure to file any required paper, or the failure to file it within the deadline,
 11 may be deemed consent to the granting or denial of the motion.” C.D. Cal. L.R. 7-12.

12 FNMA’s Motion to Dismiss was set for October 19, 2015. The Court granted
 13 an extension of time to file an Opposition, ordering that one be filed by October 26,
 14 2015. (ECF No. 28.) To date, no Opposition has been filed. Plaintiffs have failed to
 15 comply with Local Rule 7-9, and pursuant to Local Rule 7-12, that failure will be
 16 deemed consent to granting of the motion. *Enders v. Countrywide Home Loans, Inc.*,
 17 No. C 09-3213SBA, 2009 WL 4018512, at *2 (N.D. Cal. Nov. 16, 2009) (“The Ninth
 18 Circuit has held that the failure to file an opposition to a motion to dismiss is grounds
 19 for granting the motion.” (quoting *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995)).

20 Plaintiffs’ Complaint alleges nine varying causes of action against ten
 21 defendants. (Compl. ¶¶ 5 – 14.) Although the actions alleged in the Complaint may
 22 give rise to a plausible claim against several of the named defendants, they do not
 23 allow for a claim against FNMA. There are no facts plead involving FNMA, and only
 24 scant conclusions doing so. Further, many of the claims alleged do not differentiate
 25 between defendants, and the actions stated cannot be properly attributed to any single
 26 defendant, especially not FNMA.

27 The Court finds that Plaintiffs’ failure to oppose the motion to dismiss is in
 28 effect a concession that those claims lack merit. As a result, dismissal of those claims

without leave to amend is appropriate.

V. CONCLUSION

For the reasons discussed above, the Court **GRANTS** Defendant Federal National Mortgage Association's Motion to Dismiss without leave to amend. (ECF No. 22.)

IT IS SO ORDERED.

December 29, 2015

**OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE**